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U.S. BANKRUPTCY COURT
NORTHERN DIST. OF CA.
OAKLAND, CA.

Attorney for Creditors
BILL EDWARDS AND CHERYL EDWARDS

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

In re:

MATTHEW F. PELLOUCHOUD AND
MARILYN A. PELLOUCHOUD

CASE NO: 11-41892
CHAPTER 13

DATE: November 18, 2014
TIME: 1:30 P.M.
DEPT: Courtroom 201

Debtor

**SUPPLEMENTAL DECLARATION OF KARL R. MOLINEUX IN SUPPORT OF
MOTION TO CONVERT CHAPTER 13 CASE TO CHAPTER 7**

I, Karl R. Molineux, hereby declare as follows:

1. I am over the age of 18 years. Each of the matters stated herein are of my own and personal knowledge except where testified to on information and belief in which case I am informed and believe them to be true. If called as a witness herein I could and would competently testify thereto.

2. I am an attorney representing Bill and Cheryl Edwards (the "Edwards") in regards to claims against them related to, among other things, the personal guarantees they signed in favor of Community Capital Associates. I am informed and believe it to be true that the debt held by Community Capital Associates is secured by a second deed of trust on the property located at 4827 Lone Tree Way Antioch CA., (the "Property"), whereon the debtors exclusively operate their Uno's Pizzeria.

3. The title to the Property is held by the corporation AG Realty which is owned 50%

1 by the debtors and 50% by my clients, the Edwards.

2 4. I am informed and believe it to be true that although contractually obligated under a lease
3 agreement, the debtors have been in default of the lease since at least mid 2012 and have additionally
4 failed to make certain payments on the first deed of trust and the second deed of trust held by the
5 Community Capital Associates.

6 5. Due to the failure to pay the installments due under the first deed of trust, that lender
7 commenced foreclosure on September 24, 2014.

8 6. Facing the foreclosure of the property and the deficiency claim on the personal
9 guarantees, the Edwards have pursued selling the property under a "short sale" whereby the property
10 can be sold albeit less than what is owed to the first lender. The Edwards were successful in obtaining
11 a buyer for the Property and I have been negotiating with both the first and second lenders concerning
12 the release of their deeds of trust.

13 7. In the course of negotiating the short sale of the Property, the debtors have been
14 represented by Richard Bowles, Esq. To date the debtors have indicated they will only agree to the
15 short sale if certain conditions are met. These conditions have included but are not limited to a
16 demand to be paid the sum of \$150,000 for the furniture, fixtures and equipment of their pizza
17 business, even though the debtors have not paid rent for two years, which has caused the pending
18 foreclosure of the property, and that the second lender holds a UCC-1 security interest in those assets.

19 8. Attached hereto and marked as Exhibit A is a true and correct copy of an email I
20 received from Mr. Bowles wherein he demanded the \$150,000 on behalf of the debtors.

21 9. Since receipt of the e-mail, Exhibit "A", I have had further negotiations with Mr.
22 Bowles relating to this issue. While his clients have recognized that there is a UCC-1 in favor of
23 community Capital Associates it appears that the debtors still believe they should be entitled to
24 realize gain from assets in which they claim to have an interest, inclusive of a property owned by
25 CMMB Realty Corporation (sometimes referred to in correspondence as the "Denny's Property").

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1 Correspondence between Mr. Bowles and me reflecting the status of settlement discussions in relation
2 to the proposed short sale are attached as Exhibits "B", "C", "D" and "E", respectively.

3 I declare under penalty of perjury, under the laws of the State of California, that the foregoing
4 is true and correct and if called to testify to same would do so.

5 Executed on November 12 2014, at Danville, California.

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KARL R. MOLINEUX